

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	2:09-CR-0041 (01)
	§	
ELEUCARIO MARTINEZ-EUFRACIO	§	

**FINDINGS OF FACT AND RECOMMENDATION ON FELONY GUILTY  
PLEA BEFORE THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to Title 28, United States Code, Section 636(b), this matter has been referred by the District Judge for administration of guilty plea and allocution under Rule 11 of the Federal Rules of Criminal Procedure.

On the 30th day of July, 2009, this cause came before the undersigned United States Magistrate Judge for Guilty Plea and Allocution of the defendant, ELEUCARIO MARTINEZ-EUFRACIO,<sup>1</sup> on Count ONE of the INDICTMENT filed herein charging a violation of Title 8 U.S.C. § 1326(a)(1) and Title 6 U.S.C. §§ 202(3), (4) and 557. The defendant appeared with counsel and signed a written consent to proceed before the Magistrate Judge. After addressing the defendant personally, the undersigned conducted this proceeding in the form and manner prescribed by Fed. R. Crim. P. 11, the Court finds:

- a) That the defendant, after consultation with counsel of record, has knowingly and voluntarily consented to the administration of the Guilty Plea and Allocution in this cause by a United States Magistrate Judge subject to final approval and imposition of sentence by the District Court.

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<sup>1</sup> An Interpreter was present and interpreted the proceedings for the defendant.

- b) That the defendant and the Government have entered into a plea agreement which has been filed and disclosed in open court pursuant to Fed. R. Crim. P. 11(e)(2).
- c) That the defendant is fully competent and capable of entering an informed plea, that the defendant is aware of the nature of the charges and the consequences of the plea, and that the plea of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense.

IT IS, THEREFORE, the RECOMMENDATION of the undersigned United States Magistrate Judge that the District Judge accept the Plea Agreement and the guilty plea of the defendant, ELEUCARIO MARTINEZ-EUFRACIO, and that defendant be finally adjudged guilty of that offense.

The United States District Clerk shall serve a copy of these Findings of Fact and Recommendation on all parties by mailing a copy to each of them.

IT IS SO RECOMMENDED.

ENTERED this 30th day of July, 2009.

  
CLINTON E. AVERITTE  
UNITED STATES MAGISTRATE JUDGE

**\* NOTICE OF RIGHT TO OBJECT \***

Any party may object to these proposed findings, conclusions and recommendation. In the event a party wishes to object, they are hereby NOTIFIED that the deadline for filing objections is eleven (11) days from the date of filing as indicated by the "entered" date directly above the signature line. Service is complete upon mailing, Fed. R. Civ. P. 5(b)(2)(B), or transmission by electronic means, Fed. R. Civ. P. 5(b)(2)(D). When service is made by mail or electronic means, three (3) days are added after the prescribed period. Fed. R. Civ. P. 6(e). Therefore, any objections must be filed on or before the fourteenth (14<sup>th</sup>) day after this recommendation is filed as indicated by the "entered" date. See 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b); R. 4(a)(1) of Miscellaneous Order No. 6, as authorized by Local Rule 3.1, Local

Rules of the United States District Courts for the Northern District of Texas.

Any such objections shall be made in a written pleading entitled “Objections to the Report and Recommendation.” Objecting parties shall file the written objections with the United States District Clerk and serve a copy of such objections on all other parties. A party’s failure to timely file written objections to the proposed findings, conclusions, and recommendation contained in this report shall bar an aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings, legal conclusions, and recommendation set forth by the Magistrate Judge in this report and accepted by the district court. *See Douglass v. United Services Auto. Ass’n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).